G. R. S. IX-5]

Previous references.

192 /.

97 — File No. 6-21

Serial Nos 253-258

(97)

Later references.

Preserved

Reserve

27.10.63

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 4

20

Part B for October 1921

SUBJECT.

Payment of interest from 1.4.21 on the first half yearly interest on 6¼% State Loan Bonds issued to Mr Saraf Balakrishna Rao, merchant, Shimoga

---

To the Comptroller no. 7L 21.22-95.10.21

Declines to admit the claim for compensation by way of interest on the half yearly interest

WD 1868—GPB—16,826—23-7-21

27.10.21.

608

G. R. S. III-2]

General and Revenue Secretariat. | File No. 4 of 19 14

Serial No. 3111/8/14

Forwarded with Compliments. The Govt. accounts to favour of his opinion on the admissibility of the claim.

Secretary Foreign Office.

NOTE—Contn. sheet.

Serial No.

No. 8924/Gn-22
16. 8. 21

06369
DEPN & REV. SECTT.
16 AUG 1921

FINANCIAL SECRETARIAT
17 AUG 1921

In British India the Interest Act XXXII of 1839 provides for the payment of Interest by way of damages in certain cases. Under that Act the - Court may allow interest on debts or sums certain of which are payable by an instrument in writing from the time when the amount becomes payable where a time is fixed for payment or where no time is fixed from the date on which demand of payment is made in - writing giving notice to the debtor that interest - will be claimed.

Whether apart from the provisions of the Interest Act compensation for non-payment of a debt can be given under S.73 of the Contract Act (illustration N) has given rise to very divergent rulings. In Madras it has been held that interest cannot be given. 20 Mad. 481; 31 Mad. 250. Whereas in - Allahabad and in Calcutta a contrary view has been expressed 18 All. 240./ 22 CWN. 488, 15 CLJ.684,687. In the Madras case however (20 M. 481) the money claimed was due on an oral - Contract. In a case reported in 1 MHCR.369 the - Judges hold that in the absence of a demand in - writing interest up-to-date of suit cannot be awarde upon sums which are not payable under a written - instrument and of which payment has been illegally delayed. In a case reported in 31 C.L.J.348 (55 I.C 737) it was held following 27 Cal.814 that interest by way of damages is not recoverable for the mere - wrongful detention of an ordinary debt.

In Mysore there is no Act corresponding to the Interest Act. We have only to consider S.73 of

NOTE—Contn. sheet.

Serial No.

of the Contract Act. The section is regarded as - merely declaratory of the common Law as to damages (43 Cal 493 at 503). Pollock's Commentary on the Contract Act 4th Edn. P.421. According to English Common Law interest is not due on money received even by a written instrument unless it appears on the face of the instrument that interest was intended - to be paid or unless it be implied from the usage of trade as in the case of Mercantile instruments (Vide Page V.Newman 33 R.R.204, 206 and LC & DRC© V. SERC© 1893 A.C.429, 437). At Common Law interest was not payable on ordinary debts unless by agreement or by mercantile usage; nor could damages be given for non-payment of such debts. (Per Lindley J (1892) 1 Ch. at 140.) (43 Cal.493 at 503).

In (1903) 8 Mys.C.C.R.52 - In a suit for principal and interest due on a Promissory Note the Deft. pleaded that the Plff. could not recover interest as there was no agreement regarding it between them. Held that as the Promissory Note itself contained no stipulation to pay interest the payer for recovery of interest from the date of the Document was inadmissible and that the Plaintif was entitled to claim damages in the shape of interest from the date of demand.

The Mysore Government Notification G.F.289-19-2 No.Fl 8596 dated 29 June 1920 says "Interest..... .....is payable half yearly on the 1st of October and 1st of April.....Interest will be paid at any Treasury in Mysore or in British India". This would

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat. | File No. 6 of 19 21

Serial No.

would mean, I take it, that application has to be made at the Treasury at which payment is desired. And it is only when such application is made and the money is not paid that there could be any breach of contract giving rise under S.73 Cont. Act to a claim for interest as damages on the amount due.

16/8/21.

Govt. Adv.

Put up draft as per case law of the opinion - to compile for clearing the table.

17.8.21

Submitted draft for approval

Jlsec)

18/8/21 I do not think there was any demand. In any case a definite reply may be obtained

20/8/21

Issued

542 19/8

256 No. dlc correspondence No. Jl 1164 d 22.8.21 requires if the party preferred any demand for payment, if so when

22/8/21

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat. | File No. 4 of 19 4

Serial No. 267

From the Comptr:

No PD. 625-27 d: 16/2/21

with regd to previous serial forwards copies of correspondence betn his office & the Dist Dry Officer Shimoga in re the ~~matt~~ claim of mr Saraf Balakrishna Rao - merchant Shimoga for interest on not on the 6½% Bonds issued to him

Submitted with reference to said letter dated 20/2/21 on the previous page

Note 21/2/21

Mr. Henry is very keen that the C.S. for his final Dinner

835/21/9 Henry 18/2/21

Please put up draft of a brief reply on the lines suggested in the last para of Cr A's note

MK 23-9-21 18/

Submitted letter draft for approval

Note draft 18 Henry 24/9/21

861/20/9

Draft put up for approval of Hon'ble Member

MK 26.9.21

Fair draft to be placed on file

NOTE—Contn. sheet.

284/29-9-21

file to be shewn to Mr S when he comes

Draft approved 29/9/21

5580

Please address all future communications to the Comptroller to the Govt. of H.H. the Maharaja of Mysore.
In reply to this Comn. please refer to
No. 220/PD...

271-P
Ee. 6.

OFFICE OF THE COMPTROLLER TO THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

Dated, Bangalore, the 8th ~~1921~~ August 1921

GEN. REV. SECTN.
7E all
AUG 1921

DIARY No. 608 7E

1921 – 1922
Section. G7
File No. 6-21
Serial No. 255

FROM

L. Bishtopanth Badami, Esq., B.A.,
~~M. N. KRISHNA RAO, Esq., B.A.,~~
Offg: *Comptroller to the Government of*
His Highness the Maharaja of Mysore.

To

M. N. Krishna Rao, ..., Esq., B.A.,
Secretary to the Government of Mysore,
F i n a n c a i l .....*Department.*

SIR,

I have the honor to forward herewith for your information, copies of letters detailed ~~in the margin~~ below that passed between this office and - Mr. Saraf Balakrishna Rao, Merchant, Shimoga, re: his claim for payment of interest from 1st April 1921 on the first half yearly interest on the 6¼% State Loan Bonds issued to him in accordance with his application dated 30th September 1920.

I have the honor to be,

Sir,

Your most obedient servant,

MSR/8-8

Brashavendra R
878
For Comptroller.

1. Letter dated 30-4-1921 from Mr. Saraf Balakrishna Rao,
2. This office letter No.2179 dated 5-5-1921,
3. Letter dated 30-5-1921 from Mr. Balakrishna Rao,
4. This office letter No.2411P.D. dated 2-6-1921
5. Letter dated 31-7-21 from Mr. Balakrishna Rao
6. This office letter No.2710 PD dated 5-8-1921

The point is - whether demand for payment of interest due on 1st April 21 was made at the Treasury at which such payment was asked in the application. If so there is some justification for Shenoy's letter dated 10/8 claiming compensation. The G.A. has also consulted.

WD A 0610—GPB—5,000—10-8-17

C. O. 42-Rec.—17]

.....Department

191 .

FROM

M. N. KRISHNA RAO, ESQ., B.A.,
Comptroller to the Govt. of
H. H. the Maharaja of Mysore.

To

.....ESQ.,
Secretary to the Govt. of Mysore,
Dept.

Dated

Despatched

Received

No.....

Subject matter.

Copy of letter dated 30th April 1921 from Saraf Balakrishna Rao, to the Comptroller, Mysore Government, Bangalore.

.....

I invested R$2,000/- on 30th September 1920 towards the State Loan and got the bonds marginally noted on the 15th instant.

I ought to have received the bonds long before and got the interest on the 1st instant which I would have saved in the Shimoga District Treasu and got interest for a month thereby.

So I request you to kindly advise the Officer in charge of the Shimoga District Treasury to calculate the interest from 1st of April 1921 on the interest amount of R$62-8-0 and open accounts on the sum which I withdraw on receipt of a reply from your office.

Ten bonds of 100/- each Nos.D013036 to D013045
Two bonds of 500/- each Nos.E[illegible]1944 to E[illegible]1945

.....

Superintendent, Records Section,
Comptroller's Office.

MSR/8-8

Copy of letter No.2179/PD dated 5th May 1921, from the Comptroller in Mysore, Bangalore, to Mr. Saraf Balakrishna Rao, Merchant, Shimoga.

.....

Your letter dated 30-5-1921 claiming interest on the sum of first half yearly interest (Rs.62-8-0) on the 6¼% State Loan Bonds in your holding.

.....

With reference to the above, I would invite your reference to para 9 of Notification No.Fi.8596-G.F.289-19-2 dated 29-6-1920, stating that the bonds would be delivered on or after 1st October 1920.

Although there was no definite promise to deliver the bonds on a particular date necessary action has been taken to deliver the bonds as early as practicable, without causing them undue inconvenience.

No claim arises therefore for payment of interest on the amount of half yearly interest.

.....

Superintendent, Records Section,
Comptroller's Office.

MSR/8-8

Copy of letter No.2411/PD dated 2nd June 1921, from the Comptroller Mysore Government, Bangalore, to Mr. Saraf Balakrishna Rao, Merchant Shimoga.

.....

Your letter of 30th May 1921 claiming interest on the amount of half yearly interest paid to you on 15-4-1921 by the Shimoga District Treasury on 6¼% State Loan Bonds in your holding.

.....

Interest on the State Loan Bonds can only be paid after the bonds are issued and not earlier. The issue of the bonds is however subject to the application being found to be in order after examination. In these circumstances, I ~~request~~ regret my inability to meet your claim for interest on the amount of half yearly interest.

.....

Superintendent, Records Section,
Comptroller's Office.

MSR/8-8

Copy of letter dated 31st July 1921, from Mr. Saraf Balakrishna Rao, to the Comptroller, Mysore Government, Bangalore.

.....

In continuation of my letter No.2295/30-5-21, I beg to state that no satisfactory reply has yet been given to me. It was the duty of the Government to pay the interest in due time. I do not question the irregularity of the untimely delivery of the bond.

The 2nd para of your letter No.PD 2179 of 5th May 1921 does not concur with the Government Notification No.Fl.8596-G.F.289-19-2 dated 29th June 1920.

If the amount is not paid to me within a week from the date, I will place the matter in the hands of my solicitors.

.....

Superintendent, Records Section,
Comptroller's Office.

MSR/8-8

Copy of letter No.210/PD dated 5th August 1921, from the Comptroller Mysore Government, Bangalore, to Mr. Saraf Balakrishna Rao, Shimoga.

.....

Your letter dated 31-7-1921 re: the claim for interest from 1st April 1921 on the amount of the first half yearly interest on 6¼% State Loan Bonds issued to you.

.....

As already stated in this office letter No.2411 PD dated 2nd June 1921, the delay in the payment of the first half yearly interest to you was inevitable, and I regret that no further action can be take by this office in regard to your claim.

.....

Superintendent, Records Section,
Comptroller's Office.

MSR/8-8

No F 1164/GF 6-21-256 Fair draft
22-8-24

M.N.Krishna Rao, Esq., B.A.,

L.Bishtopanth Badami, Esq., B.A.,
Offg. Comptroller,Mysore Government,
Bangalore.

With reference to your letter No.220/ P.D.dated 8th August 1921 soliciting orders regarding the claim of Mr. Saraf Balakrishna Rao merchant,Shimoga for interest on the 1st half yearly interest on the 6½% bonds issued to him etc., I am directed to enquire if the party preferred ~~xk~~ any - demand for payment of the said half hearly interest at the ~~at which~~ treasury (presumably shimoga District Treasury) at which he had desired in his original application that the bonds should be enfaced for payment of interest and if so when.

I have the honour to be,
Sir,
Your most obedient servant,

For Financial ~~Secretary to Government~~ Secretary.

MK.2.

G. R. S. VI—G/32]

SUBJECT.....

.....

.....

*Diary No. of letter replied to*_____

General and Revenue Secretariat

( )

, *the* 191 .

Date of issue_____

Signed by_____

Section

File No.

Serial No.

No.

To

The Comptroller

Sir,

With reference to your letter No 2220/PD dated 8th August 19 Shikaripur

regarding the claim of M/s Saraf Balakrishnaiah Merchant Shimoga for ~~the payment of~~ interest on ~~April 1921 on~~ the 18% half yearly interest on the 6% bonds issued to them etc I am directed to say that the Treasury Officer Shimoga has been requested to pay the interest on the bonds issued to them etc I am directed to point out that the claim for interest as damages on the above mentioned ~~amount~~ Bonds cannot be admitted ~~by~~ Treasuries only when written application is made by the party at the

over.

~~Demand~~ for payment of ~~the~~ ~~payment of~~ ~~Treasury~~ ~~at~~ ~~Shimoga~~ ~~personally~~ ~~he had desired~~ ~~by~~ ~~which~~ ~~at~~ ~~in the application~~ ~~that~~ ~~the~~ ~~bonds~~ ~~should~~ ~~be~~ ~~presented~~ personally interest - and if so when -

09992

Please address all future communications to the Comptroller to the Govt. of H. H. the Maharaja of Mysore.
In reply to this Comn. please refer to
No. 625-27 P.D.463. 9/2

GEN & REV SECTT.
19 SEP 1921

OFFICE OF THE COMPTROLLER TO THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

Dated, Bangalore, the 16th September 1921.

D1621
G76-21-257

FROM

L. Bishtopunth Badami Esq., B.A.,
~~M. N. KRISHNA RAO, ESQ., B.A.,~~
Offg. Comptroller to the Government of His Highness the Maharaja of Mysore.

To

M. N. Krishnara Rao Esq., B.A., ~~Esq.~~,
Secretary to the Government of Mysore,
Financial *Department.*

The claim for interest is clearly inadmissible. The case was ashed at Nanjangud during the Mela.
15/1924
MH

SIR,

With reference to your letter No. F1.1164 dated 22nd August 1921 re the claim of Mr. Saraf Balakrishna Rao, merchant, Shimoga, for interest on the amount of the first half yearly interest on the 6¼% Bonds issued to him, I have the honor to forward herewith copies of this office letter No.368/P.D. dated 31st August 1921 addressed to the District Treasury Officer, Shimoga, and letter No. C.80/Try.21-22 dated 8th September 1921 from the District Treasury Officer, Shimoga, furnishing the information called for in the above.

I have the honor to be,

Sir,

Your most obedient servant,

Assistant Comptroller.

SAM)

9/2

WD.0922—GPB—3,000—11-12-16

C. O. 42-Rec.—17

....Department

191 .

FROM

M. N. KRISHNA RAO, ESQ., B.A.,

Offg. Comptroller to the Govt. of

H. H. the Maharaja of Mysore.

To

.....Esq.,

Secretary to the Govt. of Mysore,

Dept.

Dated

Despatched

Received

No.....

Subject matter.

Letter No.C.80.try.21-22 dated 8th September 1921 from the District Treasury Officer, Shimoga District, to the Comptroller, Mysore Government, Bangalore.

With reference to your P.D.No.368/1166 dated 31st August 1921 requesting to furnish certain information regarding the delivery of bonds No.D/3036 to 13045, I have the honor to note the required information in the margin for kind reference.

" C O P Y "

17/9

Superintendent,
Records Section,
Comptroller's Office.

1. No requisition has been received from the party in this offic
2. Date of receipt of bonds in question at the Shimoga District Treasury = 11-4-1921.
3. Date of advice sent from this office to the party for taking delivery of the bonds. 12-4-21.
4. Date or dates on which the bonds were taken delivery of and half yearly interest thereon was paid to the party 4-7-21.

SB

Letter No.P.D.368 dated 31st August 1921 from the Comptroller, Mysore Government, to the District Treasury Officer, Shimoga.

I have the honor to request you to kindly furnish information on the following points with regard to Bonds No.D.13036 to 13045. The matter may be treated as very urgent and confidential:

1. Was any requisition in writing received from the holder Mr. Saraf Balakrishna Rao demanding interest on the first half yearly interest ~~one~~ due on the bonds before they were received at the Treasury? If so, the same may be sent to this office for reference & return.

(1) 2. Date of receipt of the bonds in question at the Treasury

(2) 3. Date of advice sent to the party for taking delivery of the Bonds

(3) 4. Date or dates on which the bonds were delivered and the half yearly interest thereon was actually paid to the party.

"C O P Y"

Superintendent,
Records Section,
Comptroller's Office.

SAM.

No R 2122/676-21-258

5th Oct 24

To

The Comptroller,
Mysore Government,
Bangalore.

Sir,

With reference to correspondence ending with letter No.P.D. 625-27 dated 16th September 1921 -- regarding the claim of ~~the~~ our Saraf-Balakrishna Rao, Merchant, Shimoga for interest on the 1st half yearly interest on the 6½% bonds issued to him, I am directed to state that according to the terms of the notification announcing the 6½% loan the half yearly interest due on the bonds is payable at the Treasury at which payment is desired by the applicant. In the absence of satisfactory proof to show that the party demanded payment of interest due at the said treasury and that such requisition was not complied with, the claim for compensation by way of interest on the half yearly interest does not arise and cannot be admitted.

I have etc.,

Chandrasekhar
for affixing

For Financial Secretary to Govt.

27/9/24

MK.

G. R. S. VI—G/32]

for typed Sir

SUBJECT.....

.....

.....

*Diary No. of letter replied to*_____

General and Revenue Secretariat

( )

, *the* 191

Date of issue_____

Signed by_____

Section

File No.

Serial No

No.

To

The comptr

Sir,

With respect to correspondence ending with letter no PD 625-27 d: 16.9.27 re the claim of M/s Sarat Balakrishna merchant, Shimoga for interest on the 1st half yearly interest on the 6½% bonds issued to him, I am directed to state that the terms of the Official Gazette announcing the 6½% Loan the interest on the bonds is payable at the Reserve Bank at which payment is desired by the applicant. As the claim for compensation by way of interest on the half yearly interest does not arise and Government are advised that the above policy must be followed in this case. I have also

over.

24/9/27

26/9/27